

- 5.4 The OWNER and the ENGINEER each is hereby bound and the partners, successors, executors, administrators, legal representatives and assigns (to the extent permitted by Paragraph 6.5 below) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrations, legal representatives and said assigns of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- 5.5 Neither the OWNER nor the ENGINEER shall assign, sublet or transfer any rights under or interest in this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent the ENGINEER from employing such independent professional associates, consultants, subcontractors, and vendors as the ENGINEER may deem appropriate to assist in the performance of services hereunder.
- 5.6 ENGINEER may employ such independent professional associates, consultants, subcontractors, and vendors as the ENGINEER may deem appropriate to assist in the performance or furnishing of services under this Agreement. ENGINEER shall not be required to employ any consultant unacceptable to ENGINEER.

ARTICLE 6. Ownership and Use of Project Documents

- 6.1 All documents are instruments of service in respect to the Services, and ENGINEER shall retain an ownership and proprietary property interest therein (including the right of reuse at the discretion of the ENGINEER) whether or not the Services are completed.
- 6.2 Copies of documents that may be relied on by OWNER are limited to the printed copies (also known as hard copies) that are signed or sealed by the ENGINEER. Files in electronic media format of text, data, graphics, or of other types that are furnished by ENGINEER to OWNER are only for convenience of OWNER. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.
- 6.3 OWNER may make and retain copies of documents for information and reference in connection with the services by OWNER. Such documents are not intended or represented to be suitable for reuse by OWNER or others on extensions of the services or on any other project. Any such reuse or modification without written verification or adaptation by ENGINEER, as appropriate for the specific purpose intended, will be at OWNER's sole risk and without liability or legal exposure to ENGINEER or to ENGINEER's consultants. OWNER shall indemnify and hold harmless ENGINEER and ENGINEER's consultants from all claims, damages, and expenses including attorneys' fees arising out of or resulting therefrom.
- 6.4 In the event of a discrepancy between the electronic files and the hard copies, the hard copies govern.
- 6.5 Any verification or adaptation of the documents for extensions of the services or for any other services will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

ARTICLE 7. Liability and Indemnity

- 7.1 The ENGINEER will not be responsible for delays, disruptions or obstacles attributable to acts of God, acts of third parties, weather, intervention of public authorities, work stoppages, changes in the applicable laws or regulations after the date of commencement of performance hereunder and any other acts or omissions or events which are beyond the control of the ENGINEER.



- 7.2 OWNER may not utilize ENGINEER's construction cost estimate after thirty calendar days from the date of delivery to OWNER without ENGINEER's written consent. Estimates of cost are made on the basis of the ENGINEER's experience, qualifications, and professional judgment, but since ENGINEER has no control over the cost of labor, materials, equipment or services furnished by others, or over competitive bidding or market conditions, ENGINEER cannot and does not guarantee or warrant that proposals, bids or actual construction costs will not vary from estimates of probable costs prepared by ENGINEER. Approvals, recommendations, estimates and decisions by the ENGINEER are made on the basis of the ENGINEER's experience, qualifications, and professional judgment and are not to be construed as warranties or guarantees.
- 7.3 Notwithstanding any other provision of this Agreement, the ENGINEER's total liability to the OWNER for any loss or damages from claims arising out of or in connection with this Agreement from any cause including the ENGINEER's strict liability, breach of contract, or professional negligence, errors and omissions (whether claimed in tort, contract, strict liability, nuisance, by statute or otherwise) shall not exceed the lesser of the total contract price of this Agreement or the proceeds paid under ENGINEER's liability insurance in effect at the time such claims are made. The OWNER hereby releases the ENGINEER from any liability exceeding such amount. In no event shall either party to this Agreement be liable to the other for special, indirect, incidental or consequential damages, whether or not such damages were foreseeable at the time of the commencement of the work under this Agreement.
- 7.4 Any and all liability resulting from conditions not created or caused to be created by the ENGINEER shall be the liability of the OWNER. Any and all liability that may arise from the construction, ownership and/or operation of the improvements is solely the responsibility of the OWNER, and the OWNER hereby agrees to indemnify and hold the ENGINEER harmless from such liability, claims, actions, loss or damage, including but not limited to attorney's fees, arising therefrom.

ARTICLE 8. Termination

- 8.1 This Agreement shall be subject to termination by either party hereto, with or without cause, upon twenty (20) days advance notice in writing. Payment due ENGINEER at such time shall be computed upon applicable terms of Article 4, the amount of work completed or in progress as of the termination date and ENGINEER's reasonable cost of winding down its services after termination.

ARTICLE 9. Binding Arbitration

- 9.1 The parties shall settle any dispute arising out of this Agreement by arbitration in Montgomery, Alabama. A single arbitrator shall be selected by the American Arbitration Association to conduct the arbitration. The arbitration will be conducted pursuant to the Construction Industry Arbitration Rules of the American Arbitration Association then in effect. Judgment may be entered by any court having jurisdiction. The written award and any findings of the arbitrator must be filed within thirty (30) days after the final arbitration hearing. The parties agree that the Federal Arbitration Act shall apply to the construction, interpretation, and enforcement of this arbitration provision. If any court or finder of fact finds this arbitration provision to be unenforceable, the parties hereby waive all rights of trial by jury in any court in any action for the adjudication of such claims or disputes.



ARTICLE 10. Miscellaneous

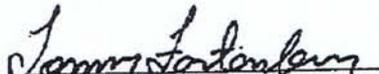
- 10.1 This Agreement represents the entire and integrated Agreement between the OWNER and ENGINEER and supersedes all prior negotiations, representations or agreements, whether written or oral. This Agreement may only be amended, supplemented or modified by written instrument executed by both the OWNER and the ENGINEER.
- 10.2 It is understood and agreed by the parties hereto, that if any part, term or provision of this Agreement is held by any court of competent jurisdiction to be illegal or in conflict with any applicable law, the validity of the remaining portion or portions of this Agreement shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.
- 10.3 It is expressly understood and agreed that the indemnity and insurance obligations of this Agreement, as well as the ENGINEER's proprietary interest in its Engineering plans and specifications, shall survive the termination of this Agreement under Article 8 above as well as the completion of services under this Agreement.
- 10.4 The laws of the State of Alabama govern all matters arising under this Agreement except the Federal Arbitration Act shall govern the arbitration provision.

WHEREFORE, the undersigned, by their signatures, certify that they have carefully read this Agreement, understand the terms and conditions contained herein, have proper authority to execute this Agreement, and do so as their own free act:

OWNER:

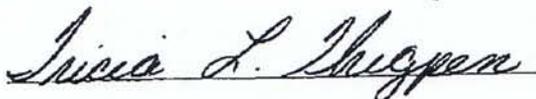
THE CITY OF GAUTIER, MISSISSIPPI

By:


Hon. Tommy Fortenbery

Title: Mayor

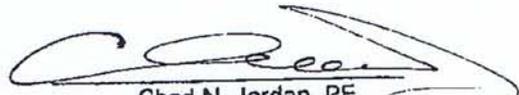
Attest:



ENGINEER:

GOODWYN, MILLS & CAWOOD, INC.

By:


Chad N. Jordan, PE

Title: Project Manager

Attest:





2012
Goodwyn, Mills & Cawood, Inc.
Standard Rate and Fee Schedule

Hourly Rates

<u>Classification</u>	<u>Rate/ hour</u>
Principal	\$225.00
Senior Engineer	\$170.00
Engineer I/Hydrogeologist	\$150.00
Engineer II/Land Surveyor/Ecologist	\$130.00
Engineer Intern I/Geologist/Biologist/Ecologist	\$110.00
Engineer Intern II/Geologist/Biologist	\$95.00
CADD Technical I	\$90.00
CADD Technical II	\$75.00
CADD Technical III	\$65.00
Construction Administration	\$110.00
Administrative	\$ 65.00
Surveying:	
Party Chief	\$75.00
Survey Crew (two-man survey crew)	\$100.00
Survey Crew (three-man survey crew)	\$135.00
Survey Crew (four-man survey crew)	\$145.00

Reimbursable Expenses

Vehicle Transport	\$0.46 per mile
Travel/Meals/Hotel	Cost plus twenty percent
Subcontractors	Cost plus twenty percent
Blueprints and Xeroxes (outside)	Cost plus twenty percent
Blueprints and Xeroxes (in-house)	\$.16 per sf
Other Reprographics	Cost plus twenty percent
Film and Development	Cost plus twenty percent
Digital Photography	\$.50 per image
Fax incoming and outgoing	No charge
Overnight mail, regular mail & shipping	Cost plus twenty percent
Telephone (toll charges)	Cost plus twenty percent
CAD translations	\$27.50 per file
CAD plots (outside)	Cost plus twenty percent
CAD plots (in-house)	
A-Size (8.5x11)	\$1.25
B-Size (11x17)	\$3.50
C-Size (17x22)	\$7.80
D-Size (22x34 or 24x36)	\$18.00
E-Size (30x42)	\$27.50
Color Laser Prints (in-house)	
A-Size (8.5x11)	\$2.00
B-Size 11x17)	\$4.00
GPS equipment	\$240.00 per day

Stormwater Permitting

Preparation of Permit and BMP Plan	\$1,000
Permit Transfer	\$375
Permit Extension	\$375
Site Inspection and Reporting	\$300 per visit
Permit Termination	\$250

**2012 SCHEDULE OF FEES
GEOTECHNICAL SERVICES**

Drilling Services

Mobilization of Drilling Equipment, per rig, lump sum.....	\$ 200.00
Mileage above 50 miles from office, per mile.....	\$ 2.50
Furnish adverse terrain vehicle (ATV), if required by site conditions, per day.....	\$ 300.00
Soil Test Boring, including Standard Penetration Test	
0-50 ft., per linear foot.....	\$ 10.00
50-100 ft., per liner foot.....	\$ 12.00
Auger Boring without sampling, per foot.....	\$ 7.00
Time rate drilling, drilling through concrete or rubble, difficult moving on site, or delay time, per hour.....	\$ 175.00
Bulk Samples from borings, each.....	\$ 35.00
Undisturbed Samples, each.....	\$ 75.00
Drill crew per diem, per crew day	
2-man crew.....	\$ 200.00
3-man crew.....	\$ 250.00
Observation well installation, 1.5 to 2" diameter PVC, per linear foot.....	\$ 10.00
Water truck, per hour.....	\$ 175.00
Rock coring (NX or NQ), per linear foot.....	\$ 45.00
Set-up charge for rock coring, per boring.....	\$ 125.00
Temporary casing, per linear foot.....	\$ 9.50

Laboratory Testing

Standard Proctor, ASTM D698/ AASHTO T99, per test.....	\$ 100.00
Modified Proctor, ASTM D1557/ AASHTO T180, per test.....	\$ 125.00
Atterberg Limits Testing, ASTM D4318, per test.....	\$ 75.00
Grain Size Analysis (without Hydrometer), ASTM D422/ AASHTO T88, per test.....	\$ 75.00
Grain Size Analysis by Hydrometer, ASTM D422/ AASHTO T88, per test.....	\$ 150.00
Percent Finer than No. 200 Sieve, ASTM D1140, per test.....	\$ 65.00
Moisture Content, ASTM D2216, per test.....	\$ 10.00
Permeability Test, ASTM D5084, per test.....	\$ 300.00
Triaxial Shear Test (CU w/ pore pressure), ASTM D4767, per test.....	\$ 850.00
Triaxial Shear Test (UU), ASTM D2850, per test.....	\$ 400.00
Consolidation Test, ASTM D2435, per test.....	\$ 450.00
Resilient Modulus, AASHTO T-307, per test.....	\$ 400.00
Sample Preparation or Remolding, per sample.....	\$ 50.00

Personnel

Staff Professional, per hour.....	\$ 80.00
Project Manager, per hour.....	\$ 90.00
Project Engineer, P.E., per hour.....	\$ 120.00
Senior Engineer, P.E. / Division Manager, per hour.....	\$ 160.00
Word Processing, per hour.....	\$ 40.00
Senior Engineering Technician, per hour.....	\$ 55.00
Engineering Technician, per hour.....	\$ 45.00
Structural Steel Inspector, CWI, per hour.....	\$ 95.00
Laboratory Manager, per hour.....	\$ 75.00

Other

Mileage, company truck or personal vehicle, per mile.....	\$ 0.50
Per diem, per man, per day.....	\$ 125.00
Supplies or subcontractor mark-up, job related.....	Cost plus 20%
Technician Overtime Premium (for work on holidays, weekends, or before or after normal 8a.m - 5p.m. Monday - Friday business hours).....	Hourly rate x 1.5
Technician Overtime Premium (for work on Holidays and Sunday).....	Hourly rate x 2.0

All Hourly charges and mileage charges are portal-to-portal
Rates effective through December 31, 2012, unless otherwise agreed upon



**2012 SCHEDULE OF FEES
CONSTRUCTION SERVICES**

Laboratory Testing

Standard Proctor, ASTM D698/ AASHTO T99, per test.....	\$ 100.00
Modified Proctor, ASTM D1557/ AASHTO T180, per test.....	\$ 125.00
Atterberg Limits Testing, ASTM D4318/ AASHTO T89 & T90, per test.....	\$ 75.00
Grain Size Analysis (without Hydrometer), ASTM D422/ AASHTO T88, per test.....	\$ 75.00
Grain Size Analysis by Hydrometer, ASTM D422/ AASHTO T88, per test.....	\$ 150.00
Percent Finer than No. 200 Sieve, ASTM D1140, per test.....	\$ 65.00
Moisture Content, ASTM D2216/ AASHTO T265, per test.....	\$ 10.00
Specific Gravity of Soil, ASTM D854/ AASHTO T100.....	\$ 75.00
Sample Preparation or Remolding, per sample.....	\$ 50.00
Compressive Strength Testing of Concrete Cylinder, each.....	\$ 10.00
Compressive Strength Testing of Masonry Grout Prism, each.....	\$ 15.00

Personnel

Staff Professional, per hour.....	\$ 80.00
Project Manager, per hour.....	\$ 90.00
Project Engineer, P.E, per hour.....	\$ 120.00
Senior Engineer, P.E. / Division Manager, per hour.....	\$ 160.00
Word Processing, per hour.....	\$ 40.00
Senior Engineering Technician, per hour.....	\$ 55.00
Engineering Technician, per hour.....	\$ 45.00
Structural Steel Inspector, CWI, per hour.....	\$ 95.00
Laboratory Manager, per hour.....	\$ 75.00

Other

Mileage, company truck or personal vehicle, per mile.....	\$ 0.50
Per Diem, per man, per day.....	\$125.00
Equipment Charge, testing equipment and vehicle, per day.....	\$ 30.00
Supplies or subcontractor mark-up, job related.....	Cost plus 20%
Technician Overtime Premium (on or before or after normal 8a.m - 5p.m. Monday - Friday business hours and Saturday).....	Hourly rate x 1.5
Technician Overtime Premium (for work on Holidays and Sunday).....	Hourly rate x 2.0

Notes:

All hourly and mileage charges are portal-to-portal. A minimum of 1/2 hour per day will be invoiced for Project Manager/Engineer review time and 1/2 hour per day will be invoiced for report preparation or word processing. Project setup charge of 3 hours of Project Management time will be charged at the beginning of the project. Rates are effective through the completion of the project or December 31, 2012, unless otherwise agreed upon.

